

REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA

**THE STATE OF CALIFORNIA NEEDS TO
IMPROVE ITS ADMINISTRATION
OF STATE-OWNED HOUSING**

REPORT BY THE
OFFICE OF THE AUDITOR GENERAL

P-654

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ITS ADMINISTRATION OF STATE-OWNED HOUSING

JULY 1987



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Auditor General

July 30, 1987

P-654

Honorable Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the need for establishing fair and reasonable housing rates for employees voluntarily occupying state-owned houses. The report indicates that some departments have not negotiated housing agreements with their employee unions after being delegated the authority to do so by the Department of Personnel Administration. The report also indicates that the Department of Personnel Administration should seek clarification from the Attorney General regarding its authority to delegate responsibility to departments for increasing housing rates for nonrepresented tenants.

Respectfully submitted,

Thomas W. Hayes
THOMAS W. HAYES
Auditor General

TABLE OF CONTENTS

	<u>Page</u>
SUMMARY	S-1
INTRODUCTION	1
AUDIT RESULTS	
I THREE OF SIX DEPARTMENTS HAVE NOT NEGOTIATED WITH THEIR EMPLOYEE UNIONS FOR INCREASES IN RENTAL AND UTILITY RATES	7
CONCLUSION	20
RECOMMENDATIONS	22
II FOUR OF SIX DEPARTMENTS APPROPRIATELY COLLECT RENT AND UTILITY PAYMENTS AND ALL SIX APPROPRIATELY ALLOCATE HOUSING	25
CONCLUSION	31
RECOMMENDATIONS	32
APPENDIX	
CALIFORNIA ADMINISTRATIVE CODE TABLES FOR RENTAL AND UTILITY RATES	35
RESPONSES TO THE AUDITOR GENERAL'S REPORT	
DEPARTMENT OF PERSONNEL ADMINISTRATION	37
BUSINESS, TRANSPORTATION AND HOUSING AGENCY	41
YOUTH AND ADULT CORRECTIONAL AGENCY	43
THE RESOURCES AGENCY	45
Department of Forestry and Fire Protection	46
Department of Parks and Recreation	48
HEALTH AND WELFARE AGENCY	49
Department of Developmental Services	50
Department of Mental Health	53

SUMMARY

RESULTS IN BRIEF

The State of California has been slow and inconsistent in increasing rental and utility rates for state-owned housing occupied voluntarily by state employees. During our audit, we noted the following specific conditions:

- The departments of Forestry, Transportation, and the Youth Authority are charging their employees housing rates based on tables in the California Administrative Code, which have not been changed since 1976;
- The departments of Developmental Services, Mental Health, and Parks and Recreation have increased substantially their housing rates;
- The departments of Developmental Services, Mental Health, and Parks and Recreation raised the housing rates for nonrepresented employees based on an improper delegation of authority from the Department of Personnel Administration (DPA);
- Although four of the six departments are collecting rent and utility payments appropriately, the departments of Mental Health and Forestry do not have adequate administrative controls to ensure that all housing payments are collected from their tenants; and
- All six departments allocate housing according to established policies and procedures.

BACKGROUND

Twelve departments manage approximately 1,110 state-owned houses rented to employees and located at a variety of sites such as state parks, hospitals, and maintenance stations. The Government Code requires the director of

the DPA to determine the fair and reasonable value of state-owned housing. In the Budget Act of 1982, the Legislature stated that rents for state-owned housing should be increased to reflect market value. However, in 1983, before the departments raised their rents, the Legislature made housing a subject for negotiations with unions representing state employees. Subsequently, the DPA delegated the authority for negotiating housing rates to each department with state-owned housing.

PRINCIPAL FINDINGS

The Departments of Forestry, Transportation, and the Youth Authority Have Not Raised Rental and Utility Rates

The departments of Forestry, Transportation, and the Youth Authority have not acted upon the DPA's delegation to negotiate housing agreements with their employee unions. Consequently, these departments are charging housing rates based on the tables from the California Administrative Code, which have not been updated in over ten years despite substantial increases in the Consumer Price Index and employees' wages. If these three departments had negotiated housing rate increases of at least 100 percent, as have the other three departments, and had the DPA raised the housing rates for nonrepresented employees, the State would have increased its annual revenues by approximately \$215,000. In addition, the rates of state-owned housing would have more nearly equalled the rates of privately owned housing.

The Departments of Developmental Services, Mental Health, and Parks and Recreation Have Raised Rental and Utility Rates

In response to the DPA's delegation, the departments of Developmental Services, Mental Health, and Parks and Recreation have negotiated housing agreements with their employee unions and have significantly raised

the housing rates for both represented and nonrepresented employees. These increases have resulted in increased revenues to the State. In addition, the rates of state-owned housing more nearly equal the rates of privately owned housing. While the increases in housing rates for nonrepresented employees are reasonable given the housing rates agreed to by the represented employees through their unions, the Legislative Counsel has stated that only the DPA can set housing rates for nonrepresented employees and that, therefore, the three departments did not have the proper authority to raise the housing rates for nonrepresented employees.

Four of Six Departments Appropriately Collect Rent and Utility Payments and All Six Appropriately Allocate Housing

Four of the six departments whose housing records we examined are collecting housing payments promptly and accurately. However, as of March 1987, the Department of Mental Health had not collected any utility payments for its nonrepresented employees at two of its hospitals since March 1984. As a result, the department has foregone approximately \$14,700 in uncollected revenue. For eight months, the department also delayed implementing scheduled increases in housing rates, resulting in approximately \$7,200 in foregone revenue. In addition, the Department of Forestry has inadequate controls to ensure the collection of all housing payments. In a sample of 70 Department of Forestry houses, four tenants had not paid \$3,344 in housing charges for periods of up to 17 months. Finally, all departments allocate housing to employees according to established policies.

Corrective Action

The Department of Mental Health developed procedures in May 1987 to ensure that, in the future, increases in housing rates will be implemented as scheduled.

The Department of Forestry has developed a plan to verify the accuracy of its housing records to ensure that it promptly collects housing payments from all tenants.

RECOMMENDATIONS

To establish fair and reasonable housing rates for employees occupying state-owned housing, the departments of Forestry, Transportation, and the Youth Authority should negotiate agreements with their employee unions.

To ensure that employees occupying state-owned housing are charged fair and reasonable housing rates, the Department of Personnel Administration should take the following actions:

- Review each department's progress in negotiating housing agreements with employee unions and reconsider its delegation if the departments do not make satisfactory progress;
- If the DPA does not agree with the Legislative Counsel's conclusion, the DPA should seek an opinion from the Attorney General to resolve the matter; and
- Amend the housing rate tables in the California Administrative Code to reflect economic changes, which include changes in the Consumer Price Index and employees' wages.

To ensure that future increases in housing rates will be in effect as scheduled, the Department of Mental Health should implement its procedures established in May 1987.

To ensure that it promptly collects housing payments from all tenants, the Department of Forestry should implement its plan to verify the accuracy of its housing records.

AGENCY COMMENTS

The Department of Personnel Administration generally agrees with the results of our review although it still believes that it can delegate to the departments its authority to adjust the rates of state-owned housing for nonrepresented employees. However, the DPA has agreed to seek a legal opinion from the Attorney General's Office.

All six departments generally agree with the results of our review. However, the Department of Developmental Services reiterated that it was properly delegated the authority by the DPA to adjust housing rates for all employees, including nonrepresented employees.

INTRODUCTION

Twelve departments and the California university systems manage state-owned housing, which they rent to employees for various purposes. For example, some departments require tenants in state-owned housing to respond to emergencies and to protect state property and resources. Also, state-owned housing can ensure that an employee has a place to live in areas where other housing is not available or prohibitive in cost. The 12 departments support approximately 1,110 houses in addition to mobile homes, apartments, and dormitories. State-owned houses are located at a variety of sites. For example, the Department of the Youth Authority has houses for its employees at some of its institutions, the departments of Mental Health and Developmental Services have houses at their hospitals, and the Department of Transportation has houses at its maintenance stations.

The sizes and ages of state-owned houses vary considerably. Some houses contain less than 600 square feet; a few contain more than 3,000 square feet. The average size of houses we sampled during field visits was approximately 1,200 square feet in the Department of Forestry, approximately 1,300 square feet in the Department of the Youth Authority, and approximately 1,700 square feet in the Department of Developmental Services. The ages of the houses in our sample ranged from 2 to 127 years.

Since 1973, some departments have reduced the number of state-owned houses they manage because alternative housing has become available in previously remote areas and some state-owned houses are no longer economical to maintain. According to records of the Department of Personnel Administration (DPA), the State owned approximately 1,350 houses in 1973; however, by 1982 that number had dropped to approximately 1,200. By 1986, we estimate that the number, which includes approximately 18 houses in the California university systems, had further dropped to 1,130 houses.

Each department managing state-owned housing that we reviewed determines whether employees are required to occupy state-owned houses or whether employees may occupy the houses voluntarily. The departments also select the housing occupants, apply rent and utility charges, maintain the houses, and dispose of the houses when they are no longer economical to maintain or when they are no longer required.

Until May 1981, the Board of Control established the monthly rates to be charged for state-owned housing based on the age, square-footage, and location of the houses. However, in May of 1981, the Legislature transferred from the Board of Control to the DPA the authority to manage state-owned housing, including the authority to formulate general policies and regulations concerning state-owned housing. Furthermore, Section 19822 of the Government Code requires the director of the DPA to determine the fair and reasonable value of

state-owned housing.* The DPA's regulations governing state-owned housing are contained in Title 2 of the California Administrative Code and include tables with the same monthly rates for rent and utilities as those adopted by the Board of Control in 1976. The appendix contains these rate tables.

In the Budget Act of 1982, the Legislature declared that the rent paid by employees living in state-owned housing should be increased to reflect market value. In the Budget Act of 1982, the Legislature also directed the Department of Finance to reduce the budgets of departments with state-owned housing, anticipating that the departments would compensate for the loss by increasing their rents to market value. However, in 1983, before the departments raised their rents, the Legislature made housing a subject for negotiations with recognized employee unions, and the DPA delegated the authority for negotiating rental and utility rates to each department.

The DPA is responsible for ensuring the proper administration of the existing terms and conditions of employment for both nonrepresented and represented employees of the State's civil service.

*The Legislative Counsel has determined that the "fair and reasonable" value of housing can equal the fair market value, but also it can equal a different amount. For example, the DPA may determine that the fair market value of a particular state-owned house in a state park is not affordable to state employees assigned to work in the park and, therefore, only an amount less than fair market value is fair and reasonable.

Nonrepresented employees include managers and supervisors. The DPA represents the governor as the employer in all matters concerning state employer-employee relations, which include the negotiation of employment contracts with the State's 20 collective bargaining units representing rank and file state employees.*

According to the chief of the DPA's Labor Relations Division, collective bargaining may be conducted by either the DPA, the individual departments, or the DPA and the departments jointly. In most cases, the DPA assists the departments in negotiating major issues such as salaries and benefits. However, issues that are limited to an individual department, such as housing, are usually negotiated by the department and the bargaining unit without the assistance of the DPA. When the bargaining unit and the State reach an agreement, the parties sign a document called a "memorandum of understanding" that describes the terms that have been agreed upon. The last agreements with bargaining units covered two to four years and expired June 30, 1987.

SCOPE AND METHODOLOGY

The purpose of this audit was to review the rental and utility rates and the administrative controls for state-owned housing occupied

*Twelve unions represent state employees in collective bargaining. Each union contains one bargaining unit except for the California State Employees Association (CSEA), which contains nine separate units.

voluntarily by full-time employees. To this end, we focused on the housing programs and administrative controls of the departments of Forestry, Transportation, the Youth Authority, Developmental Services, Mental Health, and Parks and Recreation, which collectively manage approximately 774 of the 1,110 houses administered by the 12 departments. We examined records and interviewed staff from the headquarters and field offices of the six departments. We also reviewed records and interviewed staff from the DPA to determine its administrative controls and policies for state-owned housing. Further, we reviewed statutes and regulations concerning state-owned housing and obtained opinions from the Legislative Counsel concerning the extent of the DPA's responsibility for this housing.

To determine the methods used by each department in establishing its housing rates, we examined union agreements and other documents describing the policies and procedures of the departments. We also examined the records for 306 houses, which represent approximately 40 percent of the houses managed by the six departments. To evaluate the administrative controls of each department, we reviewed each department's procedures and housing and accounting records to ensure that all occupants were promptly and correctly paying their rent and utility charges either by payroll deduction or by cash payment. We also identified each department's selection criteria for assigning employees to houses. In addition, we tested each department's compliance with its housing criteria by comparing the job descriptions of the current tenants with the job descriptions cited in each department's own criteria for occupancy.

This audit focused on state-owned housing occupied voluntarily by permanent employees. We did not review houses occupied by seasonal employees, houses required as a condition of employment, or houses such as those in freeway rights-of-way that are purchased by the State for eventual disposal. Further, we did not review other state-owned residences such as mobile homes, apartments, and dormitories. Finally, we did not attempt to establish fair market rental values for the houses.

AUDIT RESULTS

I

THREE OF SIX DEPARTMENTS HAVE NOT NEGOTIATED WITH THEIR EMPLOYEE UNIONS FOR INCREASES IN RENTAL AND UTILITY RATES

The State of California has been slow and inconsistent in increasing rental and utility rates for state-owned housing occupied voluntarily by state employees. Approximately 250 houses in three departments are rented at rates that have not been increased since 1976, a period of over ten years. If these three departments had negotiated increases of 100 percent with their unions, as have three other departments, and had the Department of Personnel Administration (DPA) raised rents for nonrepresented employees by the same percentage, the State would have increased its annual revenues by approximately \$215,000, and the rates for employees living in state-owned housing would more nearly equal the rates of those employees living in privately owned housing. In contrast, three departments have raised the housing charges for both their represented and nonrepresented employees in state-owned housing. However, the Legislative Counsel later stated that only the DPA can establish housing rates for nonrepresented employees and, therefore, the three departments improperly raised the housing rates for nonrepresented employees.

The Departments of Forestry, Transportation,
and the Youth Authority Have Not
Raised Rental and Utility Rates

Despite the DPA's delegation of authority to the individual departments to negotiate housing rates, the departments of Forestry, Transportation, and the Youth Authority have not agreed with their employee unions for increases in rental and utility rates for any of approximately 250 state-owned houses. Because the departments and their employee unions have not agreed on increases in housing rates, the departments are charging both represented and nonrepresented employees housing rates listed in the tables contained in Title 2, Section 599.642 of the California Administrative Code. The appendix contains these tables, which have not been adjusted since 1976.

We examined the housing records of 70 of the Department of Forestry's 93 state-owned houses, 56 of the Department of Transportation's 113 houses, and 23 of the Department of the Youth Authority's 40 houses. Monthly rent for the houses in our sample ranged from \$45 for a house that is 29 years old with 845 square feet located in Point Arena, California, to \$128 for a house that is 57 years old with 3,579 square feet located in Whittier, California. In addition, monthly utility charges ranged from \$3.50 to \$35.50.

According to the Legislative Counsel, while housing is subject to collective bargaining, if the departments and their employee unions fail to negotiate agreements on fair and reasonable housing rates, the

DPA can determine the rates without negotiating or conferring with employee unions. If the DPA determines the housing rates and updates the tables in the California Administrative Code, the new rates would become effective for both represented and nonrepresented employees.

These three departments have not negotiated increases in housing rates partly because they have given housing a low priority in relation to other collective bargaining issues. For example, a labor relations specialist in the Department of Transportation stated that the department did not even put the issue of housing on the bargaining table. Labor relations negotiators from both the Department of Forestry and the Department of the Youth Authority stated that the issue of housing was on the bargaining table in negotiating with their respective employee unions in 1985. Nevertheless, these negotiators stated that the issue of housing rates was dropped in exchange for concessions on issues with higher priorities. One issue with a higher priority was overtime pay. While bargaining notes that we examined for the Department of Forestry did not specifically cite one item as being eliminated by the employee union in exchange for the State's elimination of the proposed increases in housing rates, these notes did indicate that some concessions may have been made in exchange for eliminating the issue of housing. However, according to the chief of the Labor Relations Division of the DPA, the benefits realized by such compromises are difficult to quantify.

The departments provide housing for their employees for several reasons. For example, some departments require tenants in state-owned housing to respond to emergencies. However, living in state-owned housing also benefits the tenants because, in addition to low housing rates, the tenants may realize benefits such as reduced commuting costs and time. Such benefits to the tenants suggest that negotiating increases in housing rates would be appropriate.

Moreover, changes in the Consumer Price Index and in employees' wages indicate that negotiating increases in housing rates would be appropriate. Between 1977 and 1985, the overall Consumer Price Index increased 77.5 percent; the rental housing component of this index increased 72.4 percent; the fuel oil, coal, and bottled gas component increased 118.6 percent; and, the electricity component increased 92.3 percent. In addition, annual reports prepared by the State Personnel Board indicate that between 1977 and 1987 the average monthly wage for all state employees increased from \$1,212 to \$2,509, which represents an increase of 107 percent. Further, while housing charges took only a small percentage of a state employee's gross salary in 1977, the percentage has dropped even further in 1987, as illustrated by the case of employees classified as Ranger IIs in the Department of Forestry. Table 1 shows the housing charges and the increases in salary for a Ranger II between 1977 and 1987.

TABLE 1
SALARY AND HOUSING CHARGES
FOR RANGER II
1977 AND 1987

	<u>1977</u>	<u>1987</u>	<u>Percent Change</u>
Midrange monthly gross salary for Ranger II	\$2,012	\$3,617	+80%
Average rental and utility rate for Department of Forestry houses	\$ 91	\$ 91	0%
Average rental and utility rate as a percentage of gross salary	4.5%	2.5%	-44%

Both the 1977 and 1987 percentages for housing rates shown in Table 1 are substantially below those cited in 1983 in a DPA memorandum, which also states that rent for a state employee in state-owned housing must not exceed 25 percent of the employee's gross salary.

Finally, raising the rates for state-owned housing is appropriate to obtain reasonable equality between employees renting state-owned housing and those renting privately owned housing. According to a DPA memorandum in December of 1982, one intent of the Budget Act of 1982 was to establish equitable rental rates for state-owned housing. However, reasonable equality does not exist because state-owned housing benefits economically only a small percent of each department's employees because of the limited number of houses

available. In addition, the 1976 rental rates currently charged by the three departments are substantially below the market rates. Although some of the departments that we reviewed have not recently appraised the market rental values of their state-owned housing, the Department of General Services and the Department of Transportation appraised some state-owned houses in 1975, comparing their rental values with the values of privately owned houses in the same areas. Some of the state-owned houses had 1974 or 1975 market rental values that were considerably greater than rents currently being charged. For example, one house had a 1975 market rental value of \$537 per month. However, the current tenant pays only \$103 per month.

Further, the new housing rates that the departments of Developmental Services, Mental Health, and Parks and Recreation agreed to with most of their bargaining units also indicate that the rates that the departments of Forestry, Transportation, and the Youth Authority charge are outdated and, therefore, do not provide for reasonable equality. The new housing rates called for an initial increase of 100 percent above those rates in effect before the increases. The departments of Developmental Services and Mental Health also scheduled, over the duration of their respective union agreements, additional annual rent increases ranging from 11.5 percent to 25 percent. Staff of the departments of Developmental Services, Mental Health, and Parks and Recreation told us that their previous rates were the rates described in Title 2, Section 599.642 of the California Administrative Code.

On May 19 and 20, 1987, we met with labor relations staff and administrators of the departments of Forestry, Transportation, and the Youth Authority. We disclosed our findings about increases in the cost of living and employees' wages compared with the current housing rates of the three departments. The departments agreed to consider these findings during the collective bargaining negotiations for union agreements that were scheduled to become effective July 1, 1987. However, other department representatives that we interviewed during our review were concerned about whether increases in housing rates would diminish the demand for state-owned housing and result in vacancies.

While it is possible that increasing housing rates could result in vacancies, the three departments that negotiated higher housing rates indicated that they did not have vacancies resulting from the increases. In addition, during a 1986 audit of Folsom State Prison, of the 15 tenants and people on housing waiting lists whom we surveyed, 12 indicated that they would be willing to pay housing rates that were more than double those described in Title 2, Section 599.642 of the California Administrative Code. The Department of Corrections later negotiated increases in housing rates with its employee unions.

In addition to promoting equality between employees renting state-owned housing and those renting privately owned housing, negotiating increases in housing rates would also result in additional revenues to the State. For example, if the departments of Forestry,

Transportation, and the Youth Authority had negotiated rent increases of at least 100 percent of the current rents for their union agreements that expired June 30, 1987, and had the DPA increased the rents for nonrepresented employees by the same percentage, the State could have realized approximately \$215,000 per year in additional revenue. By departments, the potential additional revenues are approximately \$82,000 for the Department of Forestry, approximately \$92,000 for the Department of Transportation, and approximately \$41,000 for the Department of the Youth Authority.

The Departments of Developmental Services,
Mental Health, and Parks and Recreation
Have Raised Rental and Utility Rates

The departments of Developmental Services, Mental Health, and Parks and Recreation have negotiated housing agreements with their employee unions, resulting in higher housing rates for represented employees and increased revenues to the State. These departments also raised housing rates for nonrepresented employees such as managers because both the departments and the DPA believed that the DPA could delegate the authority to adjust housing rates for both represented and nonrepresented employees. However, an opinion from the Legislative Counsel dated June 2, 1987, states that only the DPA can set housing rates for nonrepresented employees and that the DPA's delegation was improper.

Through its delegation of authority, the DPA has given each of the departments and its employee unions the responsibility to determine housing rates for each department's housing. However, according to the Legislative Counsel, for managers and any other employees exempt from collective bargaining, and in the absence of a collective bargaining agreement on housing, departments must use the tables in Section 599.642 of the California Administrative Code, which are shown in the appendix, to determine rates for state-owned houses.

The departments of Developmental Services and Mental Health negotiated agreements with most of their employee unions for increases in housing rates, which became effective in 1984 and 1985. These agreements also provide for periodic increases in the rents until they reach market value. While the increases that became effective in 1984 and 1985 vary among the agreements, as of July 1986, all rents were at least two times greater than those the three departments previously charged, which were based on the tables in the California Administrative Code. For example, in the Department of Developmental Services, we noted that rental market values, identified by the department, ranged from 210 percent to 2,100 percent of the California Administrative Code rates. Table 2 shows the increases in rent for a represented employee of the Department of Developmental Services.

TABLE 2

**RENTAL INCREASES FOR A BARGAINING UNIT 12 EMPLOYEE
AT THE DEPARTMENT OF DEVELOPMENTAL SERVICES*
JANUARY 1984 THROUGH JULY 1987**

Date of increase	January 1, 1984	July 1, 1984	July 1, 1985	July 1, 1986	July 1, 1987**
Increase in monthly rent	\$102.50	\$205.00	\$235.75	\$266.50	\$297.25
Percentage of California Administrative Code rates	100%***	200%	230%	260%	290%

*The Department of Developmental Services established the fair market rental value of this house to be \$400 per month as of January 1, 1984.

**Increase scheduled for implementation.

***This rate is the California Administrative Code rate in effect in January 1984.

Although, as of July 1, 1987, the scheduled rent increases shown in Table 2 will have reached 290 percent of the rate specified in the California Administrative Code, the department must still negotiate more increases if the rents are to reach market value.

In addition to negotiating increases in rent, the departments of Developmental Services and Mental Health also negotiated increases in utility rates with most of their bargaining units. Under the California Administrative Code, employees living in state-owned housing previously paid a maximum of \$35.50 a month to the State when all utilities were provided by the State. In 1984, the majority of the bargaining units agreed to an initial increase to \$66 per month for all utilities from the \$35.50 cited in the tables of the California Administrative Code. Some unions also agreed to additional annual

increases in utility rates ranging from 3 percent to 8 percent. Finally, the union representing physicians and dentists agreed to higher utility rates, and in fiscal year 1986-87, these rates increased to \$97.44 per month, resulting in an increase of 274 percent of the maximum rate specified in the California Administrative Code.

The Department of Parks and Recreation and most of its employee bargaining units also agreed on significant increases in rent for the department's 394 houses. Effective June and July 1986, the rents of represented employees increased 100 percent and are scheduled to increase annually according to increases in the federal Consumer Price Index. However, according to two of the department's chief deputy directors, the intent in collective bargaining was only to make the housing program self-sufficient. Therefore, the department and the bargaining units agreed to charge rents lower than market value. Nevertheless, even though these new rents for represented members are below market value, the State has approximately doubled its annual rental revenue from the houses with these new rates.

The Department of Parks and Recreation also negotiated increases in utility rates for houses in which meters have not yet been installed.* When these new rates went into effect in June and July 1986, the flat rate for all utilities was \$66 per month for

*However, it is the policy of the department to meter all houses unless weatherization measures make metering inappropriate.

represented employees living in unmetered houses. This \$66 fee is 186 percent of the maximum amount of \$35.50 listed in the California Administrative Code tables. However, if an employee's house is metered for gas only and this employee pays all other utilities to the State, the employee's monthly payment to the State is only \$11 for electricity and water. The department may raise its utility rates 3 percent annually.

The Departments of Developmental Services,
Mental Health, and Parks and Recreation
Raised the Rates of Nonrepresented Employees

The departments of Developmental Services, Mental Health, and Parks and Recreation also raised the housing rates of their nonrepresented employees. These increases are fair and equitable considering the new rates charged to represented employees. Furthermore, the departments and the DPA believe that the DPA delegated to the departments the authority to increase housing rates for nonrepresented employees in addition to represented ones. However, the Legislative Counsel, in an opinion dated June 2, 1987, stated that the DPA's delegation of its authority to adjust housing rates for nonrepresented employees was improper.

In 1984, the departments of Mental Health and Developmental Services increased the rents for their nonrepresented employees by 100 percent above the rates specified in the California Administrative Code and increased utility rates for these employees by approximately

83 percent above the highest rates specified in the code. In 1986, the Department of Parks and Recreation increased the rents for its nonrepresented employees by 50 percent and also increased monthly utility rates up to 86 percent, to \$66 for all utilities provided by the State. These increases affect approximately 69 percent of employees occupying state-owned housing in our sample from the Department of Developmental Services, 68 percent of employees in our sample from the Department of Mental Health, and 21 percent of employees in our sample from the Department of Parks and Recreation.

The directors of the three departments stated that their departments had been delegated the authority to increase the housing rates of nonrepresented employees by the DPA. According to the director of the Department of Mental Health, a DPA memorandum dated February 2, 1983, delegated the authority to his department. He also stated that, in its requirement to increase the rents of state-owned housing, the Budget Act of 1982 did not distinguish between represented and nonrepresented employees. Finally, the directors of the departments of Developmental Services and Mental Health stated that the authority to increase rates was derived from Title 2, Section 599.646 of the California Administrative Code, which describes the responsibilities of state agencies for administering the rental schedules for employee housing.

The director of the DPA concurred with the departments that the DPA had delegated to them the authority to increase all rental

rates, including those of nonrepresented employees. While the director did not cite a legal basis for the DPA's action, he did state that in a memorandum dated November 2, 1983, it was the DPA's intention to delegate the authority for increasing rental rates for nonrepresented employees as well as represented employees. However, this memorandum addressed only represented employees.

Although the director of the DPA believes the DPA can delegate its authority to negotiate and establish housing rates for both represented and nonrepresented employees, he informed us in a letter dated May 22, 1987, that his department intends to clarify its position on the issue of delegation by amending the California Administrative Code. However, the Legislative Counsel believes that even with this amendment, the DPA still lacks the statutory authority to delegate its power to set rates.

CONCLUSION

The departments of Forestry, Transportation, and the Youth Authority have not acted on the Department of Personnel Administration's delegation of authority to negotiate housing agreements with the departments' employee unions. Consequently, despite substantial changes in the Consumer Price Index and employees' wages, these departments are charging rental and utility rates that have not been increased since 1976, a period of more than ten years. If these

departments had negotiated rent increases with their employee unions, they would have moved closer toward equality between employees renting state-owned housing and employees renting privately owned housing. Further, if the departments had increased their rents by at least 100 percent, as have three other departments, and had the DPA raised rents for nonrepresented employees by the same percentage, the State would have realized an additional \$215,000 in revenues annually.

In contrast, in response to a delegation of authority from the DPA, the departments of Developmental Services, Mental Health, and Parks and Recreation have negotiated with their employee unions for increases in housing rates for represented employees. These increases have resulted in increased revenues to the State. These departments also raised the housing rates for nonrepresented employees such as managers. The departments and the DPA believe that the DPA delegated the authority to the departments to negotiate and increase housing rates for both represented and nonrepresented employees. However, an opinion from the Legislative Counsel in June 1987 states that only the DPA can set housing rates for nonrepresented employees and, therefore, the DPA's delegation was improper.

RECOMMENDATIONS

To ensure fair and reasonable rental and utility rates for employees occupying state-owned housing, the departments of Forestry, Transportation, and the Youth Authority should negotiate agreements with their employee unions to establish housing rates that reflect changes in the Consumer Price Index and employees' wages. In setting the rates, the negotiators should also consider other factors such as the advantages to the departments in having personnel on site.

In addition, to ensure that employees living in state-owned houses are charged fair and reasonable rental and utility rates, the Department of Personnel Administration should take the following actions:

- Review each department's progress in acting on the DPA's delegated authority to negotiate housing agreements with employee unions. If the DPA determines that a department has not made satisfactory progress, the DPA should reconsider the delegation;
- If the DPA does not agree with the Legislative Counsel's conclusions, the DPA should obtain an opinion from the Attorney General to resolve the matter; and

- Amend the housing rate tables in the California Administrative Code to reflect economic changes, which include changes in the Consumer Price Index and employees' wages.

FOUR OF SIX DEPARTMENTS APPROPRIATELY
COLLECT RENT AND UTILITY PAYMENTS AND
ALL SIX APPROPRIATELY ALLOCATE HOUSING

Four of the six departments are collecting rent and utility payments promptly and accurately according to the criteria used by each department. However, the Department of Mental Health has not been collecting utility payments for nonrepresented employees at two of its four hospitals since 1984, resulting in approximately \$14,700 in uncollected revenue. In addition, for eight months, the Department of Mental Health delayed implementing scheduled increases in housing rates, resulting in approximately \$7,200 in foregone revenue from represented employees. Furthermore, the Department of Forestry has inadequate controls to ensure the collection of all housing charges. In a sample of 70 houses owned by the Department of Forestry, four tenants had not paid a total of \$3,344 in housing charges. One of these four tenants had not paid housing charges for 17 months. Finally, all departments allocate housing to employees according to their policies and procedures.

The State supplies most houses in our sample with one or more of their utilities for which the employees pay the State directly either by monthly payroll deduction or by cash payment. However, the departments of Transportation and Parks and Recreation have policies that require their employees, when feasible, to pay utility charges directly to the utility companies rather than to the State.

Except for negotiating with unions and determining housing rates, which is done by each department's headquarters, housing administration is generally decentralized in the departments we reviewed. Typically, the departments' regional or district offices select the occupants for their houses and ensure that the rates being charged are correct. Only the departments of Forestry and Parks and Recreation involve their headquarters in the process of collecting housing payments.

The Departments of Mental Health
and Forestry Need To Improve
Administrative Controls
Over State-Owned Housing

At a minimum, the Department of Mental Health should have been charging managers and supervisors the \$21.50 monthly rate for utilities stipulated in the housing tables in the California Administrative Code. However, from March 1984 through March 1987, the Department of Mental Health did not collect any utility payments from managers and supervisors living in state-owned houses at Patton and Metropolitan state hospitals.

Of the 14 tenants living in state-owned housing at Patton State Hospital, 10 managers and supervisors did not pay the \$21.50 monthly rate for utilities specified in the housing tables. In addition, of the 13 tenants at Metropolitan State Hospital, 9 managers and supervisors did not pay their utility charges.

Because the department has not collected utility payments for managers and supervisors at Patton and Metropolitan state hospitals, the State has foregone revenues. Records on each tenant's job classification dating back to March 1984 were not available. However, we used the California Administrative Code rates and assumed that since March 1984 to the time of our review the number of managers and supervisors occupying state-owned housing at Patton and Metropolitan state hospitals has remained constant at 19. Basing our conclusion on this assumption, we estimate that the State has foregone revenue amounting to approximately \$14,700 in unpaid utility charges.

The departments of Mental Health, Developmental Services, and Parks and Recreation have union agreements that specify in percentages the maximum increases for housing charges that the department may implement and the earliest dates that the increases can occur. In addition, according to the Department of Mental Health's rental manual, published in 1984, an increase in housing rates for represented employees was to be effective July 1, 1986.

However, the Department of Mental Health delayed implementing scheduled increases in housing rates for its hospitals until March 1987, a total of eight months. As a result, the State has foregone an estimated \$7,200 in housing charges from 16 represented employees who occupied state-owned houses at Atascadero, Metropolitan, Napa, and Patton state hospitals.

These housing rate increases, which ranged from 13 percent for employees belonging to several unions to 25 percent for employees belonging to another union, were delayed because of a misunderstanding between the department and the hospitals. The hospital administrators for three hospitals and the housing coordinator at a fourth hospital stated that they did not increase housing rates in July 1986 because they did not receive direction from the department instructing them to do so. However, the chief of the department's Labor Relations Section stated that the rental manual, which specifies the scheduled increases, was sufficient authority for the hospitals to increase the housing rates in July 1986. He also stated that his office discovered the hospitals' failure to raise the housing rates as scheduled while the office was reviewing union agreements for compliance issues. Later, in February 1987, the department issued a memorandum to its hospitals stating that the increases for fiscal year 1986-87 would occur in March 1987.

Finally, the Department of Forestry does not have sufficient administrative controls to ensure that housing payments are collected promptly and accurately. Although housing administration is generally carried out by the department's four regional offices, the collection of housing payments is the responsibility of the department. When a house is assigned to an employee, the regional office sends a notification to the headquarters. The headquarters maintains information on each house such as the occupant's name, the dates the occupant moved in and out, and the cost of rent and utilities. When a

tenant chooses to pay the housing charges by payroll deduction, the accounting office sends the applicable forms to the State Controller's Office for automatic payroll deduction. When a tenant does not desire payroll deduction, the accounting office sends a bill to the tenant each month, and the department maintains a manual record of billings and payments for accounting purposes.

However, the department does not always compare its housing records with its payroll records to ensure its transactions are current. In addition, it does not always maintain complete and accurate housing records since we found discrepancies with 7 of the 70 housing records we reviewed. As a result of these conditions, as of April 23, 1987, the department had not collected \$3,344 in housing payments from four tenants of the seven. One tenant paid rent only intermittently and owed \$1,215 in housing charges for 12 months. Another tenant owed \$294 in charges for three months. In the two other cases of the four, the accounting office did not review its records to determine if tenants who were supposed to be on payroll deduction were actually being charged. As a result, the department failed to detect that one tenant had not paid \$1,394 in housing charges for 17 months from August 1985 through December 1986 and that the other had not paid \$442 in housing charges for four months. Of the remaining three tenants of the seven, one was an employee of another department. Although the employee was paying housing charges to his own department, the department was not forwarding the amounts collected to the Department of Forestry. When we notified the Department of Forestry,

it contacted the other department and initiated the collection of these amounts. Finally, other files at the headquarters of the Department of Forestry inaccurately indicated that the last two tenants had not paid rent since 1973 and 1979, respectively. However, accounting staff of the regional office indicated that the houses had been transferred to the Placer Fire Center and were no longer used by the department.

Six Departments Appear To Comply With
Their Housing Allocation Policies

All six departments allocate housing in accordance with their policies. We visited at least two field sites for each of the six departments we reviewed. We examined the allocation criteria at each field site we visited and compared these criteria with the job classification of each tenant. We found no exceptions to the allocation criteria at any site. At each location, housing was allocated in accordance with policies and procedures. The objectives of the allocation criteria are based on the needs of each department. For example, the Department of Parks and Recreation requires tenants in state-owned houses to protect state property and to respond to emergencies. Similarly, the Department of Forestry typically allocates houses to fire captains and park rangers to protect resources and provide protection and information for the public. In addition, the departments of Mental Health and Developmental Services allocate houses to employees such as fire chiefs and physicians to ensure a prompt response to emergencies. Furthermore, hospital administrative staff stated that housing is used to recruit employees.

Corrective Action

The Department of Mental Health initiated procedures in May 1987 to ensure that, in the future, increases in rental and utility rates will be implemented as scheduled.

The Department of Forestry has developed a plan to verify the accuracy of its housing records to ensure that it promptly collects rent and utility payments from all tenants.

CONCLUSION

Although four of the six departments are collecting rent and utility payments appropriately, the departments of Mental Health and Forestry do not have adequate administrative controls to ensure that all rent and utility payments are collected from employees occupying state-owned housing. The Department of Mental Health did not collect utility payments from managers and supervisors at two of its four hospitals from 1984 until 1987, resulting in approximately \$14,700 in uncollected revenues. In addition, the department did not ensure that the four hospitals implemented housing rate increases that were scheduled for July 1986. As a result, the State has foregone an additional \$7,200 in revenue from represented employees. In addition, the Department of Forestry has not collected \$3,344 in rent and utility payments

from four occupants. During the audit, both the Department of Mental Health and the Department of Forestry initiated corrective action that when fully implemented could prevent similar problems from recurring. Finally, all six departments allocate housing according to their policies and procedures.

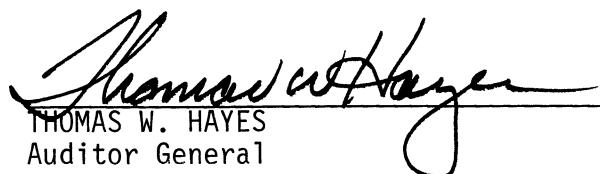
RECOMMENDATIONS

To ensure adequate administrative controls over state-owned housing, we recommend the following actions:

- The Department of Mental Health should verify the amount of rent and utilities it charges to employees who occupy state-owned houses. Furthermore, to ensure that future housing increases will be in effect as scheduled, the department should implement the procedures established in May 1987; and
- To ensure that it promptly collects housing payments from all tenants, the Department of Forestry should implement its plan to verify the accuracy of its housing records.

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



THOMAS W. HAYES
Auditor General

Date: July 27, 1987

Staff: Samuel D. Cochran, Audit Manager
Murray Edwards
Darcy Anderson
Linda White Lindert
James D. Lynch, Jr.
Bruce M. Thompson, CPA

APPENDIX

CALIFORNIA ADMINISTRATIVE CODE TABLES FOR RENTAL AND UTILITY RATES

The following rental and utility rates are from tables in Title 2, Section 599.642 of the California Administrative Code. These rates were adopted in 1976.

MONTHLY RENTS FOR HOUSES IN LOCATION CLASS 1*

<u>Square Feet</u>	<u>Age of Houses</u>				
	<u>1-20 Years</u>	<u>21-40 Years</u>	<u>41-60 Years</u>	<u>61-80 Years</u>	<u>Over 81 Years</u>
5,000 plus	\$238	\$218	\$200	\$184	\$169
4,001-5,000	200	184	169	154	142
3,001-4,000	169	154	142	130	119
2,501-3,000	142	130	119	108	98
2,001-2,500	130	119	108	98	89
1,501-2,000	119	108	98	89	81
1,001-1,500	108	98	89	81	74
751-1,000	98	89	81	74	68
501-750	89	81	74	68	62
1-500	81	74	68	62	56

*State-owned houses are in Location Class 1 when they are within 25 miles and not more than 40 minutes travel time, one way, of a community with a 2,500 or more year-round population. All other state-owned houses are in Location Class 2.

MONTHLY RENTS FOR HOUSES IN LOCATION CLASS 2

<u>Square Feet</u>	<u>Age of Houses</u>				
	<u>1-20 Years</u>	<u>21-40 Years</u>	<u>41-60 Years</u>	<u>61-80 Years</u>	<u>Over 81 Years</u>
5,000 plus	\$143	\$133	\$122	\$112	\$103
4,001-5,000	122	112	103	95	87
3,001-4,000	103	95	87	80	74
2,501-3,000	87	80	74	67	61
2,001-2,500	80	74	67	61	55
1,501-2,000	74	67	61	55	50
1,001-1,500	67	61	55	50	45
751-1,000	61	55	50	45	41
501-750	55	50	45	41	37
1-500	50	45	41	37	33

MONTHLY UTILITY CHARGES*

	<u>Water</u>	<u>Fuel</u>	<u>Electricity</u>	<u>Total</u>
Location Class 1	\$3.50	\$ 9.00	\$ 9.00	\$21.50
Location Class 2	\$5.50	\$15.00	\$15.00	\$35.50

*These monthly charges are applicable if one or more utilities are not paid directly by the employee.

State of California

M E M O R A N D U M

To: Thomas W. Hayes
Auditor General
Office of the Auditor General
660 "J" Street
Sacramento, CA 95814

Date: July 17, 1987

From: Department of Personnel Administration
Office of the Director

Subject: Report by the Office of the Auditor General -
State-Owned Housing (P-654)

In response to the draft report (P-654) regarding State-owned housing, I would like to apprise you of our response to your recommendations.

The Department of Personnel Administration (DPA) is preparing a rule package that will rescind sections 599.642, 599.645 and amend section 599.644 of the DPA regulations relating to State-owned housing. In amending section 599.644, we will make provisions for a ratesetting process for nonrepresented employees. The amended language for section 599.644 will provide that DPA may increase rates for nonrepresented employees comparable to the rates negotiated for represented employees with the signing and ratification of the various Memoranda of Understanding (MOU).

The State's bargaining proposal for 1987-88 is that all MOUs will contain language which will allow rate increases in State-owned housing and utility rates. Attached is the State's bargaining proposal as submitted to the various exclusive employee representatives. Assuming this proposal is adopted, we will then follow-up with each department to insure that rate increases are implemented.

As I have stated previously we believe that the authority to delegate the ratesetting of State-owned housing for nonrepresented employees has been within the purview of the DPA. We are agreeable to the recommendation that we seek an informal legal opinion from the Attorney General's Office as to DPA's previous delegation of ratesetting authority to departments and the impact on affected employees. We intend to make such a request in the near future.

I want to thank you for the opportunity to review the draft report on State-Owned Housing and if you have any questions on our position regarding the report, please give me a call at 322,5193.



James D. Mosman
Director

cc: Frank Tanaka, CCD
Bob Rutherford, PSB

Attachment

STATE PROPOSAL

EXCLUSIVE REPRESENTATIVE: _____ BU: _____

DATE: _____

STATE OWNED HOUSING RENTAL AND UTILITY RATES

I. RENT

Effective 7/1/87, current rental rates for all types of State -owned employee housing, including trailers and/or trailer pads, may be increased by the State as follows:

- a) Where employees are currently paying rent, the State may raise such rates up to 25% of the rate in effect as of June 30, 1987.
- b) Where no rent is being charged as of June 30, 1987, the State may raise rents up to \$75.00 per month.
- c) Employee rental of State housing shall not ordinarily be a condition of employment. In any instance after July 1, 1987 where the rental of State housing is made a condition of employment, the State may charge the employee 10% less than the regular rate of rent.
- d) Employees renting State-owned housing occupy them at the discretion of the State employer. If the State decides to vacate a State-owned housing unit

currently occupied by a State employee, it shall give the employee a minimum of 30 days advance notice.

II. UTILITIES

Effective 7/1/87, current utility charges for all types of State-owned employee housing, including trailers and/or trailer pads, may be increased by the State as follows:

- a) Where employees are currently paying utility rates to the State, the State may raise such rates up to 8% of the rates in effect as of June 30, 1987.
- b) Where no utilities are being charged, the State may impose such charges consistent with its costs.
- c) Where utilities are individually metered to State-owned housing units, the employee shall assume all responsibility for payment of such utility rates, and any increases imposed by the utility company.

1120 N Street
Sacramento
95814
(916) 445-1331

Alcoholic Beverage Control
Banking
Corporations
California Highway Patrol
California Housing Finance
Agency
Economic and Business
Development

GEORGE DEUKMEJIAN
GOVERNOR OF
CALIFORNIA



BUSINESS, TRANSPORTATION AND HOUSING AGENCY

Insurance
Housing and Community
Development
Motor Vehicles
Real Estate
Savings and Loan
Transportation
Teale Data Center
Office of Traffic Safety

July 14, 1987

Mr. Thomas W. Hayes
Auditor General
Office of the Auditor General
660 J Street - Suite 300
Sacramento, CA 95814

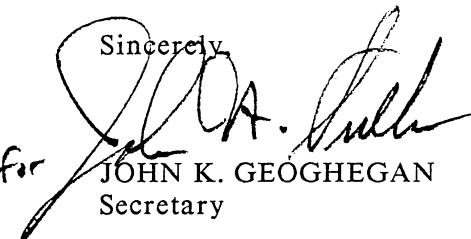
Dear Mr. Hayes:

"The State of California Needs to Improve Its
Administration of State-Owned Housing"

We have reviewed the above draft report on the Administration of State-Owned Housing. It appears that the only issue pertaining to the Department of Transportation is the recommendation to negotiate agreements with employee unions regarding fair and reasonable housing rates.

The Department has introduced a 25% across the board increase in rents in the current bargaining session and will continue to bargain for increases in future sessions.

If you have any questions, please feel free to call me.

Sincerely

for JOHN K. GEOGHEGAN
Secretary

YOUTH AND ADULT CORRECTIONAL AGENCY
OFFICE OF THE SECRETARY

July 17, 1987

Mr. Thomas W. Hayes
Auditor General
660 J Street, Suite 300
Sacramento, CA 95814

Dear Mr. Hayes:

The Department of the Youth Authority has reviewed the draft of P-654, The State of California Needs to Improve Its Administration of State-Owned Housing.

Currently, the Department has agreements to increase the housing rates in two bargaining units, the International Union of Operating Engineers (IUOE) and the Union of American Physicians and Dentists (UAPD). We have established a date to meet and confer with the California Correctional Peace Officers Association (CCPOA) and we anticipate having enabling language in the California State Employees' Association (CSEA) contracts for those units impacted. Should the enabling language again be traded during the negotiation process, the Department will meet and confer with CSEA as soon as practical.

It is anticipated that once the bargaining unit negotiations have concluded that the Department of Personnel Administration will set the increase for excluded employees. All rate increases should be effective by January 1, 1988.

Sincerely,

A handwritten signature in black ink, appearing to read "N. A. Chaderjian".

N. A. Chaderjian
Secretary

mf

M e m o r a n d u m

To : Thomas W. Hayes
Auditor General
Office of the Auditor General
660 J Street, Suite 300

From : Office of the Secretary

Date : July 17, 1987

File No.:

Subject : Comments on Draft
Report "The State
of California Needs
to Improve Its
Administration of
State-Owned Housing

Attached are written responses from the Department of Forestry and Fire Protection and the Department of Parks and Recreation to your draft report entitled "The State of California Needs to Improve Its Administration of State-Owned Housing."

The Department of Forestry and Fire Protection has taken or is in the process of taking corrective action where indicated. No major discrepancies by the Department of Parks and Recreation were indicated in the report.

Thank you for the opportunity to review your report which I am sure will help to keep state furnished employee housing rates fair and equitable.



Gordon K. Van Vleck

Secretary for Resources

Attachments

Memorandum

To : Mr. Gordon K. Van Vleck, Secretary
Resources Agency
1416 - 9th Street, Room 1311
Sacramento, CA 95814

Date : July 16, 1987
S-12

Telephone: ATSS () 445-3106
()

From : Department of Forestry & Fire Protection

Subject: 2500 BUDGETING AND FINANCE
Auditor General's Report

Pursuant to your request, the following response to the Auditor General's report on state-owned housing is being provided to your office for transmission to the Auditor General.

The report identified two concerns relating to this department's administration of state-owned housing. The recommendations, and our action on them, are presented below. I am pleased to report that full compliance has been achieved on the second issue, and resolution on the first appears likely within a few weeks.

RECOMMENDATION

To ensure fair and reasonable rental and utility rates for employees occupying state-owned housing, the Departments of Forestry, Transportation, and the Youth Authority should negotiate agreements with their employee unions to establish housing rates that are fair and reasonable, considering changes in the Consumer Price Index, employees' wages, and other factors such as the advantages to the departments in having personnel on site.

RESPONSE

In 1985 the Department of Forestry and Fire Protection (CDF) made an effort to negotiate rent and utility rate increases with the California Department of Forestry Employees Association (CDFEA). The proposal was subsequently abandoned as part of the Union's agreement over more substantial issues.

Before CDF received the Auditor General's report this year, it had already made proposals to CDFEA to increase rental and utility rates and resolve this issue. The matter is now on the bargaining table and will be resolved as soon as CDFEA and the State reach agreement on a new labor contract for Unit 8. The parties are in recess until August 2, 1987. CDF will propose to the Department of Personnel Administration that it apply negotiated rental and utility rates to supervisors as well.

RECOMMENDATION

To ensure that it promptly collects housing payments from all tenants, the Department of Forestry should implement its plan to verify the accuracy of its housing records.

RESPONSE

The plan has been implemented. CDF has identified all housing rentals and trailer pad rentals within the Department's area of responsibility. This identification includes location, rate, utility rates, and renter's name. The Accounting Office is currently comparing field information with headquarter records and reconciling any differences. The Department has adopted a periodic review to maintain its records in a current status, and to effect appropriate controls.

All CDF employees who are renting CDF facilities now have their rent and utilities automatically deducted from their pay warrants. Of the four tenants noted in the audit sample who were past due, one is paid in full, two are bringing their accounts current through increased payroll deductions, and the last is furnishing data to adjust the amount CDF records reflect as past due.

This constitutes our final report on this issue.

Any questions related to these issues and our responses may be directed to Mr. Joseph Keating, Deputy Director for Management Services, at 445-3894.



JERRY PARTAIN
Director

lp

cc: J. Keating

Memorandum

Date : JUL 17 1987

To : Honorable Gordon K. Van Vleck
Secretary for Resources

From : Department of Parks and Recreation

Subject: Attorney General's Report on State-Owned Housing

The department has reviewed the draft copy of the Attorney General's report "The State of California Needs to Improve Its Administration of State-Owned Housing." Although some minor problems were identified with the report there were no substantive problems impacting the overall report.

The report accurately reflects that the department increased rental and utility rates for both represented and non-represented employees based on delegated authority from the Department of Personnel Administration. The report also found that the department is assigning housing according to its policy and collecting rental and utility rates appropriately.

Should you need any additional information, please contact Margie Popoff of our Labor Relations Office at 324-8162.



Henry Agonia
Director



HEALTH and WELFARE AGENCY
OFFICE OF THE SECRETARY
1600 NINTH STREET, ROOM 450
Sacramento, California 95814
(916) 445-6951

JUL 17 1987

Thomas W. Hayes
Auditor General
Office of The Auditor General
660 J Street, Suite 300
Sacramento, CA 95814

Dear Mr. Hayes:

Thank you for the opportunity to respond to your draft report entitled "The State of California Needs to Improve Its Administration of State-Owned Housing." The perspectives of the Department of Developmental Services and the Department of Mental Health are found in the attached correspondence addressed to me. Please consider these attachments our response to the report.

Sincerely,

A handwritten signature in black ink, appearing to read "John Ramey".
for CLIFFORD L. ALLENBY
Secretary

Enclosures

Memorandum

To : Clifford L. Allenby
Secretary
Health and Welfare Agency
1600 9th Street, Room 450
Sacramento, CA 95814

Date : July 16, 1987

From : Office of the Director
1600 9th Street, Room 240
P. O. Box 944202
Sacramento, CA 94244-2020

Subject: State-Owned Employee
Housing

This memorandum sets forth the comments of the Department of Developmental Services (DDS) to the Auditor General's report, "The State of California Needs to Improve Its Administration of State-Owned Housing," dated July 1987.

The Auditor General, based on an opinion by the Legislative Counsel, concluded that the Department of Personnel Administration (DPA) has improperly delegated to DDS its authority to adjust housing rates. The relevant recommendations of the report do not require any action on the part of DDS, but rather, state that 1) DPA should seek an Attorney General's opinion if it disagrees with the Legislative Counsel's opinion, and 2) DPA should amend the housing regulations to increase rental rates. Even though the report does not require any direct action on the part of DDS, it does contain interpretations of the law which, because our authority derives from DPA, are relevant to this department.

The Director of DPA is given, by statute, the authority to determine the fair and reasonable value of housing furnished by the state to its employees. If this conflicts with a Memorandum of Understanding (MOU), the MOU shall control. (Govt. Code §19822) The Director of DPA is required to adopt regulations affecting the responsibilities of his department. (Govt. Code §19815.4) In reference to Govt. Code §19822, regarding employee housing rates, Title 2, California Administrative Code (CAC), §599.646, was enacted. This regulation is the basis for DDS' authority, stating, "(a) Each state agency which provides housing accommodations for employees is delegated the authority and responsibility to: (1) Apply rental rates in accordance with these regulations and to adjust rates as required by changes in age and other factors...." The remainder of the regulation sets forth other areas in which DPA's authority is delegated to state agencies.

Section 599.646 was approved by the Office of Administrative Law and enacted September 10, 1983. It remains a valid regulation.

The Auditor General's report, citing the Legislative Counsel's opinion of June 2, 1987, states that DPA's delegation of its authority to adjust housing rates for nonrepresented employees was improper. The regulation, though, makes no distinction between represented and nonrepresented employees. In fact, the word employee, as used in this regulation, includes rank and file employees, managers, and supervisors. (Title 2, CAC, §599.605, and Govt. Code §19815) Furthermore, Title 2, CAC, §599.644, grants to DPA the final authority to review and adjust these rental rates. This seems to reinforce the authority of the various state agencies to set the rates initially, to be followed by DPA review, when appropriate.

The Auditor General's report concludes that the housing rate tables in Title 2 should be amended to reflect changes in the economy, including changes reflected in the Consumer Price Index and employees' wages. The Legislative Counsel's view, that any changes in the rental rates would fall under the Administrative Procedure Act (APA), would necessitate that any changes be made by granting a new regulation. The only exception to this requirement, according to the Legislative Counsel, is the "internal management" exception. Because §199.646 delegates authority to DDS to adjust rental rates for DDS employees, this matter would seem to fit within the internal management exception. The promulgation of new regulations is not necessary in this case because the rates of DDS employee housing, as set by DDS, is a matter of internal management. (Govt. Code §11342(b))

In addition, Govt. Code §11343 excludes from the APA requirements the establishment of rates, prices, or tariffs. The setting of rental rates for DDS housing falls within this exception, allowing the department to raise rates without the promulgation of new regulations.

The conclusion reached by this department, then, is that DDS has the authority, properly granted from DPA by regulation, to adjust rental rates in departmentally-owned employee housing. DDS has raised rental rates for employee housing in order to ensure fair and reasonable housing rates, considering changes in the Consumer Price Index, employees' wages, and other factors, such as the advantage to the department in having personnel on site. This has had the effect of increasing annual revenues to the State of California. The department has acted in accordance with existing statutory and regulatory law, under authority delegated by the Department of Personnel Administration.

Finally, DDS notes that the Auditor General's report praises this department for its fair and equitable increases in housing

rates (p.18), for increasing state revenues (p.21), and for fixing rates more nearly equal the rates of privately owned housing (p.S-3). However, the Conclusion on page 21 makes no mention of these praiseworthy results, with the exception of increased revenues. While this department recognizes the need for honest criticism and suggestions, it would also seem appropriate to include the positive comments in the report's conclusion.

for Gary D. Macomber
GARY D. MACOMBER
Director

DEPARTMENT OF MENTAL HEALTH

1600 - 9th STREET
SACRAMENTO, CA 95814
(916) 323-8173



July 16, 1987

Clifford L. Allenby, Secretary
Health and Welfare Agency
1600 Ninth Street, Room 450
Sacramento, CA 95814

Dear Secretary Allenby:

This is in response to your July 13, 1987 request for comments by the Department of Mental Health on the Auditor General's report No. P-654, entitled "The State of California Needs to Improve Its Administration of State-Owned Housing."

Overall, we believe that the report presents a factual and balanced picture of the Department of Mental Health's housing program and that no changes to the analysis or conclusions are needed. While the report did identify some administrative problems regarding some of the Department's collections from employees for rent and utilities, it also acknowledges our efforts to correct these problems as they were discovered. From our perspective, the Auditor General's staff conducted a very thorough and professional review.

Thank you for giving us the opportunity to review this draft report. If you have any questions, please feel free to contact Lynn E. Whetstone, the Department's Deputy Director for Administration, at 3-8261.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael O'Connor".

For D. MICHAEL O'CONNOR, M.D.
Director

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State
Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press